



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

April 9, 1952

Hon. John F. May
District Attorney
81st Judicial District
Karnes City, Texas

Opinion No. V-1432

Re: Obligation of Wilson
County to pay its pro
rata share of the sal-
ary of the district
attorney's stenographer
when the commissioners'
courts of the other four
counties in the judicial
district have approved
the stenographer's em-
ployment and salary
rate.

Dear Sir:

Your request for our opinion reads in
part as follows:

"I am District Attorney of the 81st Judicial District, which is comprised of five counties, namely, Atascosa, Frio, Karnes, La Salle, and Wilson. Under the provisions of Revised Civil Statutes, Article 326k-19, passed by the last legislature, I am desirous of employing a stenographer, and have submitted to the commissioners courts of each of these counties a request to approve a salary for such stenographer to be paid the sum of \$2400.00 per annum as provided in said article. The Commissioners Courts of four of the counties comprising this district, namely, Atascosa, Frio, Karnes, and La Salle, have each given their approval of the employment of a stenographer at a salary of \$2400.00 per annum, each county agreeing to pay its pro-rata part according to the population of such counties. The commissioners court of the other county in this district, namely, Wilson County, has declined to give their approval of such salary.

"Under the foregoing facts, I wish to obtain your ruling upon the following:

"(1) May I employ a stenographer without securing the approval of the commissioners court of Wilson County?

"(2) If I may employ a stenographer, what salary may be paid such stenographer?

"(3) If I may employ a stenographer, will the Commissioners Court of Wilson County be authorized and required to issue monthly checks for the pro-rata share of such salary apportioned to Wilson County according to population?"

Article 326k-19, V.C.S., provides:

"Any district attorney in the State of Texas in a judicial district containing two (2) or more counties is authorized to employ a stenographer or clerk who shall receive a salary not to exceed Twenty-four Hundred (\$2,400.00) Dollars per annum, to be fixed by the district attorney and approved by the combined majority of the Commissioners Courts of the counties composing his judicial district. The salary of such stenographer or clerk provided for in this Act shall be paid monthly by the Commissioners Court of each county composing the judicial district, pro-rated apportionately to the population of the county." (Emphasis added.)

The act clearly authorizes the District Attorney of the 81st Judicial District to employ a stenographer. It also provides that the stenographer shall receive an annual salary not to exceed \$2400 per annum which is "to be fixed by the district attorney and approved by the combined majority of the Commissioners Courts of the counties comprising his judicial district."

Since four of the five counties comprising the 81st Judicial District have approved the salary of \$2400 as fixed by the District Attorney,

it is our opinion that this is the salary that may be paid to the stenographer.

It was held in Attorney General's Opinion V-1314 (1951) that the provisions of the above act relating to the duties of the commissioners' courts are mandatory. In Opinion V-1338 (1951) it was held that the commissioners' court of each county in the judicial district must pay the county's pro rata part of the salary which has been fixed by the district attorney and approved by the combined majority of the commissioners' courts. Accordingly, since a combined majority of the commissioners' courts of the counties comprising the 81st Judicial District have approved the salary of \$2400.00, it is our opinion that the underlined portion of the act requires Wilson County to pay its pro rata share of the salary apportioned to it according to population.

SUMMARY

Article 326k-19, V.C.S., authorizes the District Attorney of the 81st Judicial District to employ a stenographer. Since the commissioners' courts of four of the five counties comprising the 81st Judicial District have approved an annual salary of \$2400.00 as fixed by the District Attorney for the stenographer, this is the amount which should be paid. The act requires that Wilson County pay its pro rata share of the salary apportioned to it according to population, even though its commissioners' court has not approved the salary. Att'y Gen. Ops. V-1314, V-1338 (1951).

Yours very truly,

APPROVED:

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